

**PUBLIC
RECORD**

FILED

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NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

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ATTORNEY GENERAL OF NEW JERSEY

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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC
EXAMINERS
DOCKET NO.

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

BARRY MARK ACKERMAN, D.C.

TO PRACTICE CHIROPRACTIC IN THE
STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the New Jersey State Board of Chiropractic Examiners ("Board") upon the application for continued license reactivation by Richard Lawrence Friedman, Esq., counsel for Barry Mark Ackerman, D.C., (hereinafter "Dr. Ackerman" or "Respondent") such application being supported by documents regarding Dr. Ackerman with respect to his medical condition, drug addiction and psychological evaluation including, but not limited to, reports from Donald B. Levin, M.D., of the Northwestern Institute, and Eric London, M.D., of Carrier

Foundation. The documents were also reviewed by Charles Morgan, M.D., of the Alcove Unit, West Jersey Hospital, Camden, New Jersey. Dr. Ackerman personally appeared before a Committee of the Board together with his counsel, Mr. Friedman, on March 4, 1993, regarding the reactivation of his license to practice chiropractic.

The Board thoroughly reviewed the entire record before it and, after diligent deliberations, determined, with Respondent's consent, the entry of this Order.

IT IS THEREFORE, ON THIS 24 DAY OF JUNE, 1993

ORDERED THAT:

1. The license of Barry Mark Ackerman, D.C. to practice chiropractic in the State of New Jersey which was reinstated pursuant to an interim order signed by Dr. Ackerman on March 9, 1993, shall continue in effect, expressly contingent upon continuing compliance with the following terms and conditions:

(a) Dr. Ackerman may practice chiropractic only under the supervision of a New Jersey licensed chiropractor. Supervision shall mean that the supervising chiropractor shall be physically present at the place of practice of Dr. Ackerman one time each week while Dr. Ackerman is performing chiropractic procedures. Dr. Ackerman shall inform the supervising chiropractor of his drug addiction problem. Dr. Ackerman shall provide to the Board the name and address of the supervising chiropractor, approved by the Board to be the supervising chiropractor for purposes of this Order. Respondent shall cause the supervising chiropractor to submit monthly reports to the Board evaluating Respondent's competence and performance. Copies of

those reports shall be delivered to the Executive Director of the Board (hereinafter "Executive Director") with copies to the Board's chosen authority, as hereinafter defined. The Board has approved Thomas Braun, D.C. of Clementine, New Jersey as the initial supervising chiropractor for Dr. Ackerman.

(b) Respondent shall have his urine monitored under the supervision of an authority approved by the Board (hereinafter the "chosen authority") on a random, unannounced basis, once weekly. (The Board has approved Charles Morgan, M.D. of the Alcove Unit, West Jersey Hospital, Camden, New Jersey as the initial chosen authority). The urine monitoring may, in the discretion of the chosen authority, occur less frequently than weekly but no less frequently than biweekly. The urine monitoring shall be conducted with direct witnessing of the taking of the samples either from a volunteer or drug clinic staff as arranged and designated by the chosen authority. The initial drug screen shall utilize the EMIT technique and all confirming tests and/or secondary tests will be performed by gas chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The chosen authority shall be responsible to assure that all urine samples are handled by a laboratory competent to provide these services.

Any positive result shall be reported immediately by the chosen authority to the Executive Director of the Board or his designee in the event he is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical

developments or individual requirement indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

Any failure by the respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event the respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the chosen authority, the Executive Director of the Board, or from a representative specifically designated by the Board in the event that the chosen authority or the Executive Director are unavailable. Neither the volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, respondent must provide the chosen authority with written substantiation of his inability to appear within two (2) days, e.g., a physician's report attesting that the respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of the respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day. The chosen authority shall advise the Board of every instance where a request has been made to waive a urine test together with the program's determination in each such case.

Except for the discretion provided to the chosen authority as previously described in this subsection (b), the Board may in its sole

discretion modify the frequency of testing or method of reporting during the monitoring period,

(c) Respondent shall attend support groups including an impaired professional group and AA or NA at a frequency as recommended by the chosen authority. Respondent shall provide evidence of attendance at such groups directly to the chosen authority on a form or in a manner as required by the chosen authority. The chosen authority shall advise the Board immediately in the event it receives information that respondent has discontinued attendance at any of the support groups.

(d) Respondent shall meet with the chosen authority on a monthly basis to discuss the Respondent's progress and status.

(e) Respondent and the chosen authority shall meet to discuss the Respondent's progress and status more frequently than monthly if the chosen authority so recommends. The chosen authority may recommend involvement in other programs. In the event the respondent does not comply with a recommendation of the chosen authority, the chosen authority will advise the Board which may, upon such information, take action to file a formal complaint to take disciplinary action pursuant to applicable law, including, but not limited to, all actions set forth in N.J.S.A. 45:1-21 and N.J.S.A. 45:1-22. Pending and notwithstanding the outcome of such proceedings, this Order shall remain in effect.

(f) The chosen authority shall provide quarterly reports to the Board in regard to its monitoring of respondent's program as outlined herein including, but not limited to, the urine

testing and the attendance at support groups. The chosen authority shall attach to its quarterly reports any and all appropriate reports and/or documentation concerning any of the monitoring aspects of the within program. In the event of Respondent's violation of any provision of this Order, the chosen authority shall immediately report such violation to the Executive Director.

(g) Respondent shall attend therapy with a therapist approved by the Board. The Board has initially approved Donald B. Levin, M.D. as the therapist. Respondent shall cause this therapist to provide quarterly reports directly to the chosen authority with respect to his attendance and progress in therapy.

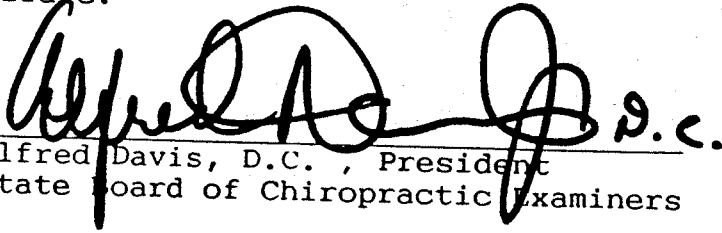
(h) Respondent shall not possess a controlled dangerous substance, prescription drug, psychotropic drug, mind-altering drug or addictive substance except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance, prescription drug, psychotropic drug, mind-altering drug or addictive substance to provide a written report to the chosen authority with a copy to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than seven (7) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication. In addition, prior to any urine test, the Respondent shall inform the urine monitor of any nonprescription drug which Respondent has used since the last urine test.

(i) Respondent shall provide appropriate releases to any and all parties who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

2. All costs associated with the requirements imposed on Respondent by this Order, including but not limited to the monitoring program, as outlined herein, shall be paid directly by the Respondent.

3. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in any manner whatsoever, including, but not limited to, a verbal report of a confirmed positive urine or any other evidence that Respondent has used a controlled dangerous substance, prescription drug, psychotropic drug, mind-altering drug or addictive substance except according to the procedures permitted by this Order, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. With the exception of the application of subsection 1(e) of this Order, the proofs at such a hearing shall be limited to evidence of the particular violation at issue. Any confirmed positive urine test shall be presumed valid, and respondent shall bear the burden of demonstrating its invalidity.

4. Respondent may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date herein. Nothing in this Order shall prevent the Board from instituting the necessary formal procedures to impose a revocation or period of suspension, if Respondent's continued practice would endanger the public health, safety and welfare.


Alfred Davis, D.C., President
State Board of Chiropractic Examiners

I have read the within Order.
I understand the Order, and I agree
to be bound by its terms and conditions.
Consent is hereby given to entry of this Order.


BARRY MARK ACKERMAN, D.C.

Dated: 6/15/93

ROBERT J. DEL TUFO
ATTORNEY GENERAL OF NEW JERSEY

BY: August T. Lembo
Deputy Attorney General
Division of Law
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CONSENT ORDER

This matter was opened to the State Board of Chiropractic Examiners (hereinafter the "Board") upon receipt of information from the Washington Township Police Department and a subsequent investigation by the Enforcement Bureau of the Division of Consumer Affairs, including but not limited to an interview with Barry Mark Ackerman, D.C. (hereinafter "respondent") that during a period from in or about January 27, 1989, respondent has been ingesting numerous Controlled Dangerous

Substances at least some of which he obtained by forged prescriptions, which practices may render him unable to practice chiropractic safely.

In order to resolve this matter without recourse to formal proceedings and for good cause shown;

IT IS ON THIS 11 DAY OF February, 1993,
HEREBY ORDERED THAT:

1. The State Board of Chiropractic Examiners accepts the voluntary surrender of respondent Barry Mark Ackerman's license to practice chiropractic in the State of New Jersey, effective February 9, 1993. Respondent shall submit his chiropractic license to Jay J. Church, Executive Director of the Board of Chiropractic Examiners, 124 Halsey Street, 6th Floor, Newark, New Jersey 07102. Said voluntary surrender shall have the same force and effect as if respondent's license had been revoked, and he shall immediately cease and desist any practice of chiropractic.

2. Provided that respondent immediately complies with all other provisions of this Order, such that an adequate opportunity for evaluation of the respondent's ability to practice chiropractic consistent with the public health safety and welfare shall have been afforded to the Board by March 5, 1993, and further provided the Board takes no further action to suspend or revoke respondent's license to practice chiropractic, the respondent's license shall be reinstated on that date, and the license previously submitted to the Board shall be returned

to respondent, subject to paragraphs 5 and 6 of this Order. In no event shall respondent resume the practice of chiropractic pursuant to the terms of this paragraph 2 without first notifying the Board of his intent to do so in writing, by mail certified, return receipt requested with time of receipt by the Board being the time of notice; violation of this notice requirement shall constitute grounds for immediate suspension of respondent's license without further notice and until further action by the Board.

3. Respondent shall submit to a psychological and/or medical evaluation by a Board appointed consultant prior to requesting reinstatement of license. Respondent shall be responsible for the fee of the consultant for the evaluation and reports.

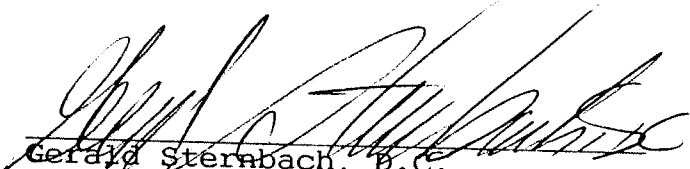
4. Respondent shall sign the necessary releases of information and/or cause and permit the staff or other designee of the Board's Impaired Physicians Committee or any other person or entity treating the respondent for drug addiction to disclose to the Board any evaluation it has made of the respondent as well as any recommendations and any other pertinent information. This shall include advising the Board of any and all programs in which respondent engages, including urine monitoring, and keeping the Board advised as to respondent's progress and successful completion on any on-going basis.

5. Nothing herein shall prevent the Board from taking formal disciplinary action at any time in the future if it

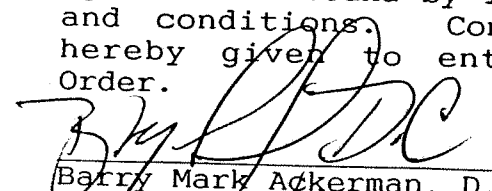
determines in its discretion that it is in the best interest of the public to do so; the Board may take any other action it deems appropriate, including, but not limited to, entry into a further Consent Order or the request to the Attorney General to make an emergent application to the Board to suspend or revoke respondent's license.

6. Respondent acknowledges that it is the intent of the Board that, following the evaluation of respondent, a new Consent Order shall be agreed upon and entered prior to March 5, 1993, if possible, with that new Order including agreed-upon restrictions and conditions under which respondent may be permitted to resume the practice of chiropractic in accordance with the public health, safety and welfare, or, in the alternative, the Board may institute the necessary formal procedures to impose a revocation or a period of suspension, if respondent's continued practice would endanger the public health, safety and welfare.

DATED: _____


Gerald Sternbach, D.C.
President
State Board of Chiropractic
Examiners

I have read the within Order.
I understand the Order, and I
agree to be bound by its terms
and conditions. Consent is
hereby given to enter this
Order.


Barry Mark Ackerman, D.C.

DATED: 2/3/93